

December 19, 2003

Ms. April Mulqueen, Esquire  
Assistant Director  
Telecommunications Division  
Massachusetts Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110

**Re: D.T.E. 01-33 - Request for Waiver of NANPA's Denial of AT&T's  
Request for 2,000 Numbers (Two One-Thousand Blocks) to Meet a Specific  
Customer Need**

Dear Ms. Mulqueen:

AT&T Communications hereby requests that the Department issue a waiver of NANPA's (*i.e.*, "NeuStar" or "Pooling Administrator") decision to deny AT&T's request for 2,000 **contiguous** numbers (two one-thousand blocks) to meet the specific needs of a customer requesting additional numbering resources. AT&T takes such action pursuant to Federal Communications Commission ("FCC") rules [47 C.F.R. 52.15(g)(3)(iv)].

**1. Background and Nature of the Numbering Request.**

A Massachusetts customer has requested that AT&T provide two one-thousand blocks of numbers for telecommunications services that AT&T provides.<sup>1</sup> The customer, a large government entity, is currently in the process of constructing a new building and plans to move their Users into the new facility in January 2004.

As a result of this move, the customer has requested that the assignment of the two one-thousand blocks be **expedited**. In addition, the customer has stated that they prefer numbers that are not in the 0 or 9 blocks. The customer intends to activate all 2,000 of these numbers within the next 180 days.

On December 18, 2003, AT&T submitted a "Part 1A" form to the Pool Administration System (PAS), NeuStar, requesting blocks in NPA 781 within the restrictions outlined by the customer. AT&T completed this application in accordance

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<sup>1</sup> AT&T considers the customer's name proprietary and trade secret information. Accordingly, to keep this information confidential, AT&T is not revealing the name of the customer in this Letter.

with the Industry Numbering Committee's Central Office Code (NXX) Guidelines and submitted the necessary Months to Exhaust and Utilization Certification Worksheet.<sup>2</sup>

AT&T requested the two one-thousand blocks from NeuStar because it does not have the needed numbers available in its existing inventory. If the customer cannot get the needed numbers from AT&T, it will be forced to seek service from another carrier.

NeuStar denied AT&T's request because AT&T did not meet the Federal Communications Commission's ("FCC") utilization requirement for the LEXINGTON rate center. The denial of AT&T's request was based on NeuStar's understanding of the applicable FCC rules and related INC Guidelines. These rules and guidelines require that a block or code holder requesting growth resources demonstrate that existing resources within the rate center will both exhaust within six months, and meet the 70 percent utilization level. NeuStar calculates utilization for AT&T's request at 35.737 percent.

## **2. Request for Waiver of NANPA's NXX Code Denial.**

AT&T requests that the Department overturn NeuStar's decision and order the two one-thousand blocks that meets the customer's requirements be assigned to AT&T.

In setting its policy for the assignment of telephone numbers, the FCC designated NANPA and the Pooling Administrator to handle numbering resource administration.<sup>3</sup> If the NANPA or Pooling Administrator decides to withhold numbering resources from a carrier, the FCC has specifically authorized state commissions to overturn those decisions for reasonable cause documented herein. That authority is specifically set out in the relevant FCC Rule, 47 C.F.R. § (g)(4), which states:

The NANPA shall withhold numbering resources from any U.S. carrier that fails to comply with the reporting and numbering resource application requirements established in this part. The NANPA shall not issue numbering resources to a carrier without an Operating Company Number (OCN). The NANPA must notify the carrier in writing of its decision to withhold numbering resources within ten (10) days of receiving a request for numbering resources. The carrier may challenge the NANPA's decision to the appropriate state regulatory commission. **The state commission may affirm, or may overturn, the NANPA's decision to withhold numbering resources from the**

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<sup>2</sup> A copy of the Months to Exhaust and Utilization Certification Worksheet that AT&T submitted to NANPA is attached.

<sup>3</sup> 47 C.F.R. § 52.15(a) states: "Central Office Code Administration shall be performed by the NANPA, or another entity or entities, as designated by the Commission." 47 C.F.R. § 52.20(d) states: "The Pooling Administrator shall be a non-governmental entity that is impartial and not aligned with any particular telecommunications industry segment, and shall comply with the same neutrality requirements that the NANPA is subject to under this part."

**carrier based on its determination that the carrier has complied with the reporting and numbering resource application requirements herein. The state commission also may overturn the NANPA's decision to withhold numbering resources from the carrier based on its determination that the carrier has demonstrated a verifiable need for numbering resources and has exhausted all other available remedies.** (emphasis added)

In addition, the FCC through the INC Guidelines provides that appropriate regulatory authorities may review the Pooling Administrator's decision to deny a request for numbering resources.<sup>4</sup>

The FCC also clarified in the text of a recent NRO Order<sup>5</sup> that carriers may now appeal to states using a "safety valve" mechanism (paragraphs 57-66). As is noted in the following, the FCC contemplated the need for, and gave structure to states to respond when denials failed to consider a "specific customer request":

...a carrier should be able to get additional numbering resources when there is a verifiable need due to the carrier's inability to satisfy a specific customer request. We therefore clarify that states may also grant relief if a carrier demonstrates that it has received a customer request for numbering resources in a given rate center that it cannot meet with its current inventory. Carriers may demonstrate such a need by providing the state with documentation of the customer request and current proof of utilization in the rate center. States may not accommodate requests for specific numbers (i.e., vanity numbers), but may grant requests for customers seeking contiguous blocks of numbers. Any numbering resources granted for this reason may be initially activated only to serve the requesting customer for whom the application was made. If the customer request is withdrawn or declined, the requesting carrier must return the numbering resources to the NANPA or Pooling Administrator, and may not retain the numbering resources to serve other customers without first meeting our growth numbering resource requirements.<sup>6</sup>

It is clear that all necessary elements are present to allow the Department adequate evidence for the overturning of NeuStar's denial. First, AT&T made the appropriate

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<sup>4</sup> See INC TBPAG Sections 3.7 and 12(c).

<sup>5</sup> *In the Matter of Numbering Resource Optimization, et al.*, CC Docket Nos. 99-200 and 96-98, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 ("Third NRO").

<sup>6</sup> *Id.* at ¶ 64.

application to NeuStar. Second, NeuStar denied AT&T's request for two one-thousand blocks in the LEXINGTON rate center because AT&T's utilization of its numbers in this rate center did not hit the requisite percent.

FCC numbering policy is not intended to deny carriers the use of numbers for legitimate purposes such as this. In issuing its Numbering Resource Optimization Order released December 29, 2000 (and effective May 8, 2001)<sup>7</sup>, the FCC communicated the heart of its pro-competition policy when it stated:

“[w]e continue to develop, adopt and implement a number of strategies to ensure that the numbering resources of the North American Numbering Plan (NANP) are used efficiently, and that all carriers have the numbering resources they need to compete in the rapidly expanding telecommunications marketplace.”<sup>8</sup>

Accordingly, AT&T respectfully requests the Department grant this waiver request on an expedited basis, and direct NeuStar to assign to AT&T the two one-thousand blocks that meets the customer's requirements immediately.

Thank you for your assistance in this matter.

Sincerely yours,

Patricia A. Jacobs  
Regional Director  
Regulatory and Government Affairs

Enclosures

cc: Mary L. Cottrell, Secretary  
Michael Isenberg, Esq., Director  
D.T.E. 01-33 Service List

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<sup>7</sup> *In the Matter of Numbering Resource Optimization, et al.*, CC Docket Nos. 99-200 and 96-98, Second Report and Order, Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, and Second Further Notice of Proposed Rulemaking in CC Docket No. 89-200 (rel. Dec. 29, 200) (“*FCC 00-429 Second NRO*”). Due to its length, the 108 page *FCC 00-429 Second NRO* is not attached hereto but may easily be accessed at [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/FCC-00-429A1.doc](http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-00-429A1.doc).

<sup>8</sup> *Id.* at ¶ 1.